

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Thomas Green,	)	C/A No.: 4:09-420-JFA-TER
Petitioner,	)	
	)	
vs.	)	O R D E R
	)	
Warden, Perry Correctional Institution,	)	
	)	
Respondent.	)	
_____	)	

The *pro se* petitioner, Thomas Green, initiated this action pursuant to 28 U.S.C. § 2254. The respondent filed a motion for summary judgment. An order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying petitioner of the summary judgment procedure and possible consequences if he failed to adequately respond to the motion for summary judgment. The petitioner was granted two extensions of time within which to respond to the motion, however, he never responded.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation wherein he suggests that this action should be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The petitioner was advised of his right to file objections to the Report and Recommendation, which was

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<sup>1</sup> The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

entered on the docket on October 21, 2009. He did not file objections to the Report.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper and the Report is incorporated herein by reference.

Accordingly, this action is dismissed with prejudice pursuant to Fed. R. Civ. P. Rule 41(b).

IT IS SO ORDERED.

November 24, 2009  
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.  
United States District Judge